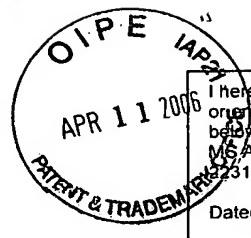


IFW



I hereby certify that this paper (along with any paper referred to as being attached
herein) is being deposited with the U.S. Postal Service on the date shown
below with sufficient postage as First Class Mail, in an envelope addressed to:
MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA
22313-1450.

Dated: April 6, 2006

Signature:
(Randall G. Rueth)

Docket No.: 29488/39975
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Mark A. Wagner et al.

Application No.: 10/772,804

Confirmation No.: 5215

Filed: February 5, 2004

Art Unit: 3634

For: STORE LEAD-IN FIXTURE FOR PRODUCT
DUMP TABLE

Examiner: Lindsay M. Maguire

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I. The Standard for Requiring Restriction Has Not Been Met

The restriction requirement is improper on its face because it does not meet the minimum required standard set forth in MPEP §803. Section 803 requires two criteria for a proper requirement of restriction for purported patentably distinct inventions. First, the inventions must be independent (*see* MPEP 802.01, 806.04, 808.01) or distinct (*see* MPEP 806.05 – 806.05(i)) as claimed. Second, regardless of whether the inventions are independent or distinct, there "must be a *serious burden* on the examiner if restriction is required." (emphasis added) (*see* MPEP 803.02, 806.04(a) - 806.04(i), 808.01(a), and 808.02) Referring to the second requirement, §803 recites that "if the search or examination of an entire application can be made *without serious burden*, the examiner *must examine it on the merits*, even though it includes claims to independent or distinct inventions." (emphasis added)

There is no evidence in the record that search and examination of the entire application would be any burden, much less a serious burden, on the examiner, as is necessary for upholding a proper restriction requirement. There is absolutely no burden on the examiner to search for the groups divided in the Restriction Requirement, because all